

## CHAPTER 21

[Substitute House Bill No. 174]

## PODIATRISTS—LICENSURE—STATE PODIATRY BOARD

AN ACT Relating to the practice of podiatry; amending section 1, chapter 38, Laws of 1917 as last amended by section 1, chapter 77, Laws of 1973 and RCW 18.22.010; amending section 13, chapter 52, Laws of 1957 as amended by section 2, chapter 77, Laws of 1973 and RCW 18.22.020; amending section 18, chapter 38, Laws of 1917 as amended by section 3, chapter 77, Laws of 1973 and RCW 18.22.030; amending section 6, chapter 38, Laws of 1917 as last amended by section 18, chapter 158, Laws of 1979 and RCW 18.22.040; amending section 4, chapter 149, Laws of 1955 as amended by section 5, chapter 77, Laws of 1973 and RCW 18.22.050; amending section 14, chapter 52, Laws of 1957 as last amended by section 16, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.22.060; amending section 3, chapter 97, Laws of 1965 as last amended by section 17, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.22.081; amending section 6, chapter 149, Laws of 1955 as last amended by section 18, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.22.120; amending section 10, chapter 38, Laws of 1917 as last amended by section 17, chapter 77, Laws of 1973 and RCW 18.22.210; amending section 14, chapter 149, Laws of 1955 as amended by section 18, chapter 77, Laws of 1973 and RCW 18.22.215; amending section 12, chapter 149, Laws of 1955 as amended by section 19, chapter 77, Laws of 1973 and RCW 18.22.230; adding new sections to chapter 18.22 RCW; creating new sections; repealing section 5, chapter 149, Laws of 1955, section 7, chapter 77, Laws of 1973 and RCW 18.22.070; repealing section 8, chapter 149, Laws of 1955, section 12, chapter 77, Laws of 1973 and RCW 18.22.140; repealing section 9, chapter 149, Laws of 1955, section 13, chapter 77, Laws of 1973 and RCW 18.22.150; repealing section 17, chapter 52, Laws of 1957, section 14, chapter 77, Laws of 1973 and RCW 18.22.160; repealing section 15, chapter 38, Laws of 1917 and RCW 18.22.170; and repealing section 16, chapter 38, Laws of 1917, section 16, chapter 77, Laws of 1973 and RCW 18.22.200.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Section 1. The legislature finds that the conduct of podiatrists licensed to practice in this state plays a vital role in preserving the public health and well-being and that the existing agency responsible for disciplinary action against podiatrists does not offer a simple, expedient, and effective means of handling disciplinary action when necessary for the protection of the public. The purpose of this act is to establish an effective public agency to regulate the practice of podiatry for the protection and promotion of the public health, safety, and welfare and to act as a disciplinary body for the licensed podiatrists of this state.

Sec. 2. Section 1, chapter 38, Laws of 1917 as last amended by section 1, chapter 77, Laws of 1973 and RCW 18.22.010 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) The practice of podiatry means the diagnosis and the medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the human foot. A podiatrist is a podiatric physician and surgeon of the foot licensed to treat ailments of the foot, except ((for));

((+)) (a) Amputation of the foot; ((and

~~(2))~~ (b) The administration of a spinal anesthetic or any anesthetic, which renders the patient unconscious, or the administration and prescription of drugs including narcotics, other than required to perform the services authorized for the treatment of the feet; and

~~((3))~~ (c) Treatment of systemic conditions.

(2) "Board" means the Washington state podiatry board.

(3) "Department" means the department of licensing.

(4) "Director" means the director of licensing.

(5) "Approved school of podiatry" means a school approved by the board, which may consider official recognition of the Council of Education of the American Podiatry Association in determining the approval of schools of podiatry.

Sec. 3. Section 13, chapter 52, Laws of 1957 as amended by section 2, chapter 77, Laws of 1973 and RCW 18.22.020 are each amended to read as follows:

It shall be unlawful for any person to practice podiatry in this state unless ~~((he))~~ the person first has obtained a license therefor.

Sec. 4. Section 18, chapter 38, Laws of 1917 as amended by section 3, chapter 77, Laws of 1973 and RCW 18.22.030 are each amended to read as follows:

Nothing in this chapter contained shall be construed as preventing any licensed physician, surgeon, osteopath, chiropractor, or other person licensed to treat the sick and afflicted, from treating the hands or feet by the methods and means permitted by ~~((his))~~ the person's license, nor to prevent the domestic administration of family remedies, nor shall this chapter be construed to discriminate against any particular school of medicine or surgery or osteopathy and surgery, or any chiropractic school, or any licensed system or mode of treating the sick or afflicted ~~((or to interfere in any way with the practice of religion. PROVIDED, That nothing herein shall be held to apply to or to regulate any kind of treatment by prayer)), or to apply to or to regulate treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination.~~

Sec. 5. Section 6, chapter 38, Laws of 1917 as last amended by section 18, chapter 158, Laws of 1979 and RCW 18.22.040 are each amended to read as follows:

Before any person shall be permitted to take an examination for the issuance of a podiatry license, ~~((he))~~ the applicant shall furnish the director of licensing and the board with satisfactory proof that:

(1) ~~((He))~~ The applicant is eighteen years of age or over;

(2) ~~((He))~~ The applicant is of good moral character; ~~((and))~~

(3) ~~((He))~~ The applicant has successfully completed a four-year course in a high school or its equivalent and a two-year college course leading toward the baccalaureate degree, not including correspondence courses, before beginning a course in podiatry in an approved school of podiatry; and

(4) ~~The applicant has received a diploma or certificate of graduation from a legally incorporated, regularly established and ((recognized)) approved school of podiatry ((having as a minimum requirement not less than four thousand two hundred sixteen scholastic hours given over a period of four years with personal attendance.~~

<sup>a</sup>Recognized<sup>a</sup> means official recognition by the Council of Education of the American Podiatry Association. PROVIDED, That each applicant, prior to the beginning of his course in podiatry or registration or matriculation in a recognized school of podiatry, must have as a minimum requirement, a four years' course in a high school or its equivalent and the successful completion of a two years' residence course of work of college grade leading toward the degree of bachelor of science).

Sec. 6. Section 4, chapter 149, Laws of 1955 as amended by section 5, chapter 77, Laws of 1973 and RCW 18.22.050 are each amended to read as follows:

Applicants for a certificate to practice podiatry shall file satisfactory evidence of having ~~((pursued in any recognized))~~ completed, in an approved, legally chartered school of podiatry, a course of instruction ((covering a total of at least four thousand two hundred sixteen scholastic hours, including)) which includes those subjects that appear on the examinations administered by the national board of podiatry examiners.

Sec. 7. Section 14, chapter 52, Laws of 1957 as last amended by section 16, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.22.060 are each amended to read as follows:

Every applicant for a license to practice podiatry shall pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

An applicant who fails to pass an examination satisfactorily ~~((after the expiration of six months from the date of the examination at which he failed;))~~ is entitled to ~~((a))~~ reexamination at a meeting called for the examination of applicants, upon the payment of a fee for each reexamination determined by the director as provided in RCW 43.24.085 as now or hereafter amended ~~((for each reexamination))~~.

NEW SECTION. Sec. 8. There is added to chapter 18.22 RCW a new section to read as follows:

There is created the Washington state podiatry board consisting of five members to be appointed by the governor. All members shall be residents of

the state. One member shall be a consumer whose occupation does not include the administration of health activities or the providing of health services and who has no material financial interest in providing health care services. Four members shall be podiatrists who at the time of appointment have been licensed under the laws of this state for at least five consecutive years immediately preceding appointment and shall at all times during their terms remain licensed podiatrists.

Board members shall serve five-year terms, except that the terms of the initial appointees shall be adjusted so that only one member's term expires each year. The initial appointees whose terms expire after two years and four years shall each be members of the existing podiatry examining committee appointed under RCW 43.24.060.

No person may serve more than two consecutive terms on the board. Each member shall take the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of appointment and until a successor is appointed and sworn.

Each member is subject to removal at the pleasure of the governor. If a vacancy on the board occurs from any cause, the governor shall appoint a successor for the unexpired term.

NEW SECTION. Sec. 9. There is added to chapter 18.22 RCW a new section to read as follows:

The board shall meet at the places and times it determines and as often as necessary to discharge its duties. The board shall elect a chairperson from among its members. Each member shall receive fifty dollars a day for each day actually spent in the performance of official duties and in traveling to and from the place of performance in addition to travel expenses provided by RCW 43.03.050 and 43.03.060 as now or hereafter amended.

NEW SECTION. Sec. 10. There is added to chapter 18.22 RCW a new section to read as follows:

The board shall:

- (1) Administer all laws placed under its jurisdiction;
- (2) Prepare, grade, and administer or determine the nature, grading, and administration of examinations for applicants for podiatrist licenses;
- (3) Examine and investigate all applicants for podiatrist licenses and certify to the director all applicants it judges to be properly qualified;
- (4) Conduct hearings for the refusal, suspension, or revocation of licenses or appoint a departmental hearing officer to conduct these hearings;
- (5) Investigate all reports, complaints, and charges of malpractice, unsafe conditions or practices, or unprofessional conduct against any licensed podiatrist and direct corrective action if necessary;
- (6) Issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;
- (7) Take or cause depositions to be taken as needed in any investigation, hearing, or disciplinary proceeding; and

(8) Adopt rules establishing ethical standards for the podiatric profession including rules relating to false or misleading advertising and excessive charges for professional services. The board may adopt any other rules which it considers necessary or proper to carry out the purposes of this chapter.

NEW SECTION. Sec. 11. There is added to chapter 18.22 RCW a new section to read as follows:

Board members and staff are immune from suit in any civil or criminal action based upon their official acts performed in good faith as members or staff of the board brought by or on behalf of a person who is being evaluated.

Sec. 12. Section 3, chapter 97, Laws of 1965 as last amended by section 17, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.22.081 are each amended to read as follows:

Any applicant who has been examined and licensed under the laws of another state(;) which ~~((through a reciprocity provision in its laws, similarly accredits))~~ grants the holders of certificates from the proper authorities of this state ~~((to))~~ the full privileges of practice within its borders or an applicant who has satisfactorily passed examinations given by the national board of podiatry examiners(;) may, in the discretion of the ~~((examining committee))~~ board and after examination by the board in the clinical application of dermatology, bio-mechanics, surgery, medicine, podiatric medicine, radiology, pharmacology, laboratory procedures, and any other subjects the board may require by regulation, be granted a license ~~((without examination))~~ on the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer ~~((PROVIDED, That he))~~ if the applicant has not previously failed to pass an examination held in this state. If the applicant was licensed in another state, ~~((he))~~ the applicant must file with the director a copy of ~~((his))~~ the license certified by the proper authorities of the issuing state to be a full and true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state.

NEW SECTION. Sec. 13. There is added to chapter 18.22 RCW a new section to read as follows:

Except for applicants granted licenses under RCW 18.22.081, applicants must successfully complete an examination administered by the board to determine their professional qualifications. The board shall prepare and give, or approve the preparation and giving of, an examination which covers those general subjects and topics, a knowledge of which is commonly required of candidates for the degree of doctor of podiatry conferred by approved colleges or schools of podiatry in the United States. The board shall have the sole responsibility for determining the proficiency of applicants

under this chapter and, in so doing, may waive any prerequisite to licensure not set forth in this chapter.

The board may by rule establish the passing grade for the examination, and in so doing may grant credit based on experience which shall not exceed five percent of the total possible grade. The department shall keep records of the examination grades which shall be permanently kept with each applicant's file.

Sec. 14. Section 6, chapter 149, Laws of 1955 as last amended by section 18, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.22.120 are each amended to read as follows:

Every person practicing podiatry must renew his or her license each year and pay a renewal fee determined by the director as provided in RCW 43-.24.085 as now or hereafter amended.

~~((Any podiatry license that has been allowed to lapse may be renewed by presentation of a new character certificate as required for examination, together with the payment of the annual license fee))~~ Failure to register and pay the annual renewal fee invalidates the license, but it shall be reinstated upon written application to the director and payment to the state of a penalty of ten dollars, together with all delinquent annual renewal fees: PROVIDED, That a person who fails to renew his or her license for a period of three years is not entitled to renewal under this section but must file an original application as provided in this chapter, and pay the required fee. The board may permit an applicant whose license has lapsed in this manner to be licensed without examination if it determines that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of podiatry.

**NEW SECTION.** Sec. 15. There is added to chapter 18.22 RCW a new section to read as follows:

(1) If a podiatrist is determined by a court of competent jurisdiction to be mentally incompetent or mentally ill, the board shall suspend the podiatrist's license upon the entry of judgment, regardless of the pendency of an appeal.

(2) If it appears to the board that there is reasonable cause to believe that a podiatrist who has not been judicially determined to be mentally incompetent or mentally ill is unable to practice podiatry with reasonable skill and safety to patients due to illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or due to any mental or physical condition, a complaint in the name of the board shall be served upon the podiatrist for a hearing on the sole issue of the capacity of the podiatrist to practice. In enforcing this subsection the board may, upon probable cause, direct a podiatrist in writing to submit to a mental or physical examination by two or more physicians designated by the board, at least one of whom shall be approved by the podiatrist if he or she requests. A podiatrist's failure to submit to an examination when directed constitutes

grounds for immediate suspension of the podiatrist's license and a default and final order of suspension may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the podiatrist's control. A podiatrist suspended under this subsection shall at reasonable intervals be given an opportunity to demonstrate that he or she can competently resume the practice of podiatry with reasonable skill and safety to patients.

(3) For the purpose of subsection (2) of this section, a podiatrist licensed under this chapter accepts the privilege of practicing podiatry in this state and by practicing or by filing annual registration to practice consents to a mental or physical examination when directed in writing by the board and waives objection to the admissibility of the examining physicians' testimony or examination reports on the ground of privileged communication.

(4) Neither the record of proceedings nor the orders entered by the board in any proceeding under subsection (2) of this section may be used against a podiatrist in any other proceeding.

NEW SECTION. Sec. 16. There is added to chapter 18.22 RCW a new section to read as follows:

Any of the following acts is unprofessional conduct and grounds for revocation, suspension or denial of license:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of his or her practice as a podiatrist or not, and whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. A certified copy of the judgment and sentence of conviction is conclusive evidence of the guilt of the podiatrist of the crime described in the judgment and sentence in any disciplinary proceeding before the board;

(2) Misrepresentation or concealment of a material fact in obtaining a license or reinstatement of a license to practice podiatry;

(3) All advertising of podiatric business which is intended to or has a tendency to deceive the public or impose upon credulous or ignorant persons and is harmful or injurious to public morals or safety;

(4) The impersonation of another licensed podiatrist;

(5) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for therapeutic purposes;

(6) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the board;

(7) Unprofessional conduct under chapter 19.68 RCW;

(8) Aiding or abetting an unlicensed person to practice podiatry;

(9) Suspension or revocation of the podiatrist's license to practice podiatry by competent authority in any state, federal, or foreign jurisdiction;

(10) Incompetency or negligence in the practice of podiatry resulting in serious harm to the patient;

(11) Violation of any board rule fixing a standard of professional conduct;

(12) Wilful disregard of a board subpoena or notice;

(13) Gross or continued wilful overcharging for professional services;

(14) Failure to abide by the terms of corrective actions directed by the board;

(15) Any public claim, representation, or advertisement that the licensee is a "doctor" or its synonyms independent of the title "podiatrist" or its synonyms; or

(16) Violation of any of the provisions of this chapter.

Sec. 17. Section 10, chapter 38, Laws of 1917 as last amended by section 17, chapter 77, Laws of 1973 and RCW 18.22.210 are each amended to read as follows:

It shall be deemed prima facie evidence of the practice of podiatry or ~~((as))~~ of holding ~~((himself))~~ oneself out as a practitioner of podiatry within the meaning of this chapter for any person to treat in any manner the human foot by medical, surgical or mechanical means or appliances, or to use the title "podiatrist" or any other words or letters which designate or tend to designate to the public that the person so treating or holding himself or herself out to treat, is a podiatrist: PROVIDED, HOWEVER, That nothing herein contained shall prohibit a duly licensed physician or surgeon from treating the human foot by medical, surgical or mechanical means or appliances.

Sec. 18. Section 14, chapter 149, Laws of 1955 as amended by section 18, chapter 77, Laws of 1973 and RCW 18.22.215 are each amended to read as follows;

If any person engages in the practice of podiatry without possessing a valid license so to do, or if ~~((he))~~ a person violates the provisions of RCW 18.22.140, the attorney general, any prosecuting attorney, the director, or any citizen of the same county may maintain an action in the name of the state to enjoin such person from engaging in the practice of podiatry. The injunction shall not relieve from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to license suspension or revocation ~~((of his license))~~.

Sec. 19. Section 12, chapter 149, Laws of 1955 as amended by section 19, chapter 77, Laws of 1973 and RCW 18.22.230 are each amended to read as follows:

The following practices, acts and operations are excepted from the operation of the provisions of this chapter:



(1) The practice of podiatry in the discharge of official duties by podiatrists in the United States armed forces, public health service, Veterans Bureau or Bureau of Indian Affairs;

(2) Recognized schools of podiatry or colleges of podiatry, and the practice of podiatry by students in such recognized schools or colleges, when acting under the direction and supervision of registered and licensed podiatrists acting as instructors;

(3) The practice of podiatry by licensed podiatrists of other states or countries while appearing as clinicians at meetings of the Washington state podiatry association or component parts thereof, or at meetings sanctioned by them;

(4) The use of roentgen and other rays for making radiograms or similar records of the feet or portions thereof, under the supervision of a licensed podiatrist or physician((-));

(5) The practice of podiatry by externs, interns, and residents in training programs approved by the American Podiatry Association;

(6) The performing of podiatric services by persons not licensed under this chapter when performed under the supervision of a licensed podiatrist if those services are authorized by board regulation or other law to be so performed.

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 5, chapter 149, Laws of 1955, section 7, chapter 77, Laws of 1973 and RCW 18.22.070;

(2) Section 8, chapter 149, Laws of 1955, section 12, chapter 77, Laws of 1973 and RCW 18.22.140;

(3) Section 9, chapter 149, Laws of 1955, section 13, chapter 77, Laws of 1973 and RCW 18.22.150;

(4) Section 17, chapter 52, Laws of 1957, section 14, chapter 77, Laws of 1973 and RCW 18.22.160;

(5) Section 15, chapter 38, Laws of 1917 and RCW 18.22.170; and

(6) Section 16, chapter 38, Laws of 1917, section 16, chapter 77, Laws of 1973 and RCW 18.22.200.

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